

Observations and Reflections

ON THE

PENITENTIARY SYSTEM.

A LETTER

FROM

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TO

ROBERTS VAUX.



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PREFATORY NOTE.

Dr. Bache, the author of the following letter, has been for several years PHYSICIAN TO THE PENITENTIARY IN THIS CITY, and in that capacity has had the most ample opportunities for observation, which an acute and well disciplined intellect, and a benevolent spirit, enabled him to improve.—His opinions are therefore entitled to great respect.

LETTER.

Philadelphia, March 13, 1829.

MY DEAR SIR,

I regret very much that I have not been able, sooner, to reply to your letter of the 25th of January last, in which you pay me the compliment of requesting my opinion on the subject of the separate confinement of prisoners. The question which you propound is in these words:—"Is separate confinement a wise mode of treating prisoners?" In the following observations, I shall endeavour to answer it to the best of my ability, according to the lights which I may possess.

It would seem to be the most direct way of coming to a solution of this question, to inquire what may be the evils of the *gregarious* confinement of prisoners, in order to determine whether their separate confinement would or would not remove them.

The evils of gregarious confinement are too manifold to be enumerated in the present letter; but the principal ones may be mentioned under the following heads:

1. Mutual countenance and contamination.
2. The fostering of bad passions and evil propensities, by living in a community, in which many of the crimes committed by the most depraved portion of society, living at large, are re-enacted.
3. The impossibility, on the part of the best disposed prisoners, after being discharged, of avoiding the fellowship of the most abandoned, who may be privy to their disgrace.
4. The notoriety of the prisoner's disgrace to a large num-

ber of the most depraved members of society, which operates to deter his relations and original friends, through pride, from giving him countenance and support.

1. *Mutual countenance and contamination.*

No one cause is a more fruitful source of the hardening of offenders, more particularly young offenders, than the countenance which they receive upon entering a community of convicts. We may imagine it possible, that a young convict, on entering a prison for the first time, may experience contrition, may have his feelings much subdued, and penetrated with a sense of his disgrace; but how altered is he in a short time. He is received with open arms by his new associates. If he continues to evince a subdued spirit, he is scoffed for betraying weakness; if his spirits begin to revive, he is sustained by narratives of successful knavery, by applauses bestowed on his criminal acts, or by exciting resentment in his breast for the alleged injustice or hardship of his case. How different may we suppose the progress of the feelings of the same individual, on entering a solitary cell. Instead of shaking off the salutary feelings with which he is supposed to enter the prison, they are enhanced. Instead of drowning the sense of his disgrace in noise, reckless mirth, and vicious conversation, the silence and loneliness of his cell deepens the tone of his previous feelings. His heart sinks within him, and he has ample time to scan the course of his past life.

As it respects mutual contamination, it need hardly be remarked, that in a community of criminals, every member of it approaches to the state of the most depraved individual which it contains. There is no redeeming influence of the less criminal over the more hardened portion: all rapidly tend to grow worse. But this is not all; the sum total of vice is not merely increased; but if I may so speak, it is increased in intensity. Now all these evils are avoided by the separate confinement of the criminal, and at the same time, a positive good substituted; for I hold it as exceedingly probable, that a criminal becomes better, the very moment he is

prevented from growing worse, as I cannot conceive him to remain stationary.

2. *The fostering of bad passions, &c.*

It is a well known fact, that many of the crimes committed by the depraved when at liberty, are perpetrated in prisons, under the system of gregarious confinement. Those that occur to me at this moment are murder, manslaughter, assault with intent to kill, maiming, perjury, theft, concealing stolen goods, gambling, &c. &c. There are also some crimes, which may be said to be peculiar to this kind of confinement. If then we were to concede for a moment, that the prisoner, on his entrance, is not rendered worse by being cast into a community of criminals, still the facts mentioned above clearly show, that he has, in many instances, an opportunity of indulging his particular criminal propensities, just as if he were at large: the only difference is, that his sphere of operations is more circumscribed. In this manner, his bad passions and evil propensities are at least perpetuated, if not rendered more intensely active. What then becomes of the grand principle of moral discipline, the severing of depraved mental associations, and the breaking up of the influence of habit. It need not be added, that on the system of gregarious confinement, this principle cannot be brought into operation. Now all these evils disappear, on the system of separate confinement.

3. *The impossibility, on the part of the best disposed prisoners, &c.*

This objection to gregarious confinement is, perhaps, as strong as any that I have urged. The situation of a prisoner on being discharged, who may be supposed to have formed a strong mental resolution to lead a reformed life, is truly deplorable. Claimed as a brother, both in misfortune and crime, by hardened offenders, and studiously shunned by the virtuous part of the community, if he remain firm to his resolution, he suffers every misfortune that could shake the strongest moral principle.—He has no other resource than to hurry from the neighbourhood of his disgrace to some distant spot, where, being unknown, he will cease to be repelled by the good, and

inveigled by the vicious. But what trials await, and dangers beset him in the attempt. His very efforts to change his course of life, give mortal offence to his hardened associates in disgrace; and he is compelled either to fraternize with them or submit to become the victim of their resentment. If he still repels them, he is, in all probability, the subject of some false accusation, which consigns him once more to a prison; or if he escapes this greater misfortune, he is at least followed up with unrelenting perseverance, and the fatal secret of his disgrace made known wherever he may bend his steps.

It has been alleged, that the disadvantage arising from the notoriety of an individual's disgrace, cannot be removed by the separate confinement of prisoners; inasmuch as, the courts of law being open, his conviction may be known to the whole community. But this is arguing against the means of obtaining, to a very great extent, an important advantage for the prisoner, because that means cannot obtain the object in view, entirely and completely. For it must be obvious, that the notoriety produced by the casual observation of a promiscuous crowd in a court, is not comparable to the notoriety created by constant and familiar intercourse with hundreds of felons in a prison.

And here I will take the liberty of bringing under your notice an important consideration, in regard to the system of separate confinement. I conceive that its introduction will tend, gradually, to meliorate the moral condition of society at large. If it should go into operation, it will encounter a mass of evil at the outset, which will retard its operations at first, but which it will have a tendency, gradually, to remove. What I particularly allude to at this moment, is that concert of action, amongst discharged convicts, and their guilty associates, who may have escaped the penalties of the law, which constitutes them a separate community, at war with society at large, and possessing similar views, feelings, interests, and even a peculiar language. The first discharged convict, who may have the benefit of separate confinement, must encounter the danger of being ensnared by this community of offenders,

who may, perhaps, be privy to his disgrace through the courts, or some other channel of information; but who can doubt that the ranks of this confederacy of villains would be thinned faster by death and other causes, than it could possibly be recruited by discharged convicts on the separate confinement system. For on this system, the chain of connexion is broken, the principle of affiliation is effectually destroyed; and each individual of the new generation of convicts would be, to a certain extent, isolated, and unconnected with his brethren in disgrace and crime, while the old generation is fast passing away. In this way, it would happen, that those evils of the existing system, which might be supposed at first to prevent the full development of the benefits of separate confinement, would gradually disappear; and in the end, instead of having, in the bosom of society, an organized community of criminals, united by the common ties of misfortune and crime, and acknowledging the principle of mutual aid and support; a community, forming a great school of vice in which the destitute and unwary are taught the lessons of depravity,—we should have substituted a disjointed, scattered, unconnected population of offenders, without concert and without common principle of action, who, so far from having their criminal propensities fostered and confirmed by bad association, might possibly be reclaimed by the influence of the comparatively virtuous communities in which they might happen to be situated.

4. *The notoriety of the prisoner's disgrace to a large portion of the most depraved members of society, &c.*

It may easily be conceived that one of the greatest obstructions to the reform of criminals, who have for the first time violated the laws, is the abandonment of friends and relatives. Now nothing operates so much to produce this abandonment, as the moral contamination of gregarious confinement. We may suppose that a single crime might be forgiven, if the moral disease had not been aggravated, I will not say rendered incurable, by the mistaken vengeance of the law. What idea more revolting to our feelings, or stinging to the pride,

than that the individual, in whose fate we possibly take a deep interest, from the claims of consanguinity or early friendship, may be familiarly taken by the hand by several hundreds of the most hardened offenders. If such individual had been separately confined, he is returned to his friends at the expiration of his sentence, at least not rendered worse than at its commencement, and his disgrace is known to comparatively few. No wound is inflicted by the claimed fellowship of the most abandoned, and no danger incurred by the individual from their seductive arts. Every circumstance seems favourable to the exertions of his friends to bring him back to the path of rectitude.

These, then, are the principal evils of gregarious confinement, so far as they occur to me at this moment; and they would seem to be removed by the system of separate confinement. I am, therefore, constrained to believe that "separate confinement is a wise mode of treating prisoners;" inasmuch as it affords reasonable hopes of removing, either wholly or in part, the deplorable evils to which I have adverted in the preceding part of this letter.

But, after stating the evils removed by separate confinement, it may be worth while to inquire whether any are introduced, which are inseparably connected with the plan itself. The principal objections which have been urged against separate confinement, that now occur to me, are—

1. Injury to health.
2. The expensiveness of the system, arising from the difficulty, if not impossibility, of combining it with labour.

1. *Injury to health.*

The question of injury to health cannot be answered by any general affirmation or denial; as the confinement may be either prejudicial or otherwise, according to circumstances. If we mean by health, that ideal state which is the consequence of living well, and within proper bounds in all respects—then I think separate confinement will be injurious to such health. But if we mean by health, the particular grade of physical well-being of an individual, not within the confines

of indisposition, then I think it not improbable, that, taking the average grade of health of prisoners, belonging as they usually do, to the debauched and intemperate portions of society, and assuming an average length of confinement, their health would generally be improved. At least, I feel well convinced, that the mortality amongst any number of criminals on the separate confinement system, would be considerably less than amongst the same number, if we suppose them at large.

Considering the question in the abstract, all confinement, whether separate or gregarious, must be deemed injurious to health; but, considered relatively to the usual habits of convicted violators of the law, it may well be doubted, whether it does not prolong life. If we institute a comparison between the two systems, as to their influence on health, it may be supposed that gregarious confinement, considered simply, is the less injurious; but when taken in connexion with the complications of exposure, cold, and insufficient space, circumstances which in practice seem invariably to attend that system, I much incline to the opinion, that it has a more unfavourable influence on life and health than the other. The official published reports of the Walnut street prison will show, that the mortality in that penitentiary has been about six per cent. on an average, for the last six or eight years. After much reflection, I have come to the conclusion, that it would have been less, had the same prisoners been separately confined.

A great deal has been said on the probable production of insanity by separate confinement. I have witnessed the effects of such confinement, continued for between six and twelve months, on a sufficient number of prisoners, to satisfy my mind that this apprehension is not well founded. Insanity may occasionally occur, when the depressing influence of incarceration on the mind and body, happens to operate on an individual predisposed to that disease; but I have no facts that would warrant me in believing, that insanity would be more likely to occur as a consequence of this mode of treating prisoners, than of the ordinary mode.

2. *The expensiveness of the system, &c.*

The expensiveness of any system of prison discipline is certainly an objection to it, when its advantages over other systems, which may be adopted at less cost, are problematical; but if any system can be shown to be vastly superior to every other, I think the expense of carrying it into execution should not weigh a feather. Believing, as I sincerely do, that the separate confinement of criminals is the true system, I, of course, apply the above remark to it; and I feel prepared to advocate a full and fair experiment of this plan, at almost any expense. But if it should prove to be the fact, that the expense of this system has been greatly overrated, you can easily imagine that my preference of it would be still more confirmed.

In regard to labour in connexion with separate confinement, it may be interesting to inquire, 1st, whether it would be proper; and if proper, 2ndly, whether it would be practicable. This appears to me to be the most difficult point of the inquiry, and one respecting which my mind has been most wavering and unsettled. I incline, however, to the opinion, that as a general rule, the prisoners should be engaged in some useful employment in his cell, to be withdrawn at the discretion of the principal of the prison, when necessary for the enforcement of discipline. I would advocate this course, not with a view to the productiveness of the labour, but because it seems important that a habit of industry should be formed, if possible, during the prisoner's confinement, as this may have a favourable influence on his future conduct when discharged. As to the practicability of labour, I feel satisfied, that there can be found a sufficient number of trades and employments, which could be carried on in separate small apartments. But even if this should be found impracticable, I should by no means be willing to abandon the plan of separate confinement, which I consider the all-important principle, and not to be set aside for any secondary consideration whatsoever.

It seems probable, therefore, that labour may be adopted, to a certain extent, in connexion with separate confinement;

and that a portion of the expense of keeping the prisoner may be defrayed by his own exertions. But conceding that nothing of much importance can be calculated from that source, still it will be recollected, that the prisoner, on the separate confinement system, will cost less for clothing and food. Besides, it must be noted, that prisoners on this system are supposed to require a shorter sentence for any given crime, than on the prevailing system, a circumstance which will cause a very considerable saving of expense. If we add to these considerations, the probability of the diminution of prisoners, relatively to the population, as a consequence of the system here advocated, by reason of its breaking up the *model schools* of vice, which most of our prisons so effectually form on their present plan, it will not, perhaps, be too much to assert, that the separate confinement system will not be materially more expensive than the existing system.

But if we take an enlarged view of the subject, we shall perceive additional reasons for believing that the plan by separate confinement, is far from being liable to the objection of not being an economical system. Suppose for a moment that the system, here advocated, would diminish the number of criminals, not merely within our penitentiaries, but at large; would not such diminution be a great saving to the public. Suppose, for instance, that the number of thieves were reduced one-third in any community, would not the annual tax, levied by these lawless depredators on public property, be considerably diminished? It is true, that the public do not appreciate the extent and burden of such involuntary tax; but is it less a tax on that account, or rather is it not the worst possible tax, which, so far from being used for punishment and reform, constitutes at once the end and means of crime.

Were I to follow my present train of reflections, I should write more than would consist with your patience or my time. I shall, therefore, take occasion merely to add, that the plan of separate confinement at night, and joint labour by day, as pursued at the Auburn prison, seems to me to be

a great improvement, when compared with the prevailing system in most of our prisons; and in proportion as the discipline adopted during the day in the prison, diminishes the chances for the reciprocal communication of ideas and mutual observation, will it approach to the perfection of the plan of *entire* separation. The objection to this system is, that it does not go far enough; that it leaves something unaccomplished which is essential in the work of improvement. Even admitting that the Auburn plan precludes intimacy and familiarity, it cannot prevent the prisoners from the mutual observation of each other; and a mere knowledge of one another as inmates of a prison is an evil of very considerable magnitude.

I hope you will not suppose, because I conceive that the separate confinement of criminals at night, as practised in the Auburn prison, is a great step towards improvement, that I approve of the chief means adopted in that penitentiary, of enforcing discipline, namely, corporal punishment; on the contrary, I feel the greatest repugnance to the introduction of such a mode of punishment into our prisons. I cannot go into all the arguments, which might be brought against it, but I may be permitted to remark, that it hardens the criminal, and destroys the germ of reformation, if, peradventure, it exists in his breast. On the other hand, the punishment of diminished food, darkness, silence, &c. subdue the spirit and mollify the heart.

I know that much stress has been laid on the usage of flogging sailors and whipping school-boys; and it has been urged, that if they were right for them, it could not be wrong for criminals. But I am not in the least influenced by this argument; for I conceive there is not a class of men in the community, more reckless in their conduct, and who disregard more the restraints of the moral faculties, than sailors, and I may add, those sailors especially who have grown up under the discipline of the lash; and as to the whipping of school-boys, I consider it an indefensible practice, which ought not to be tolerated in an enlightened community. No one supposes that sailors are made better men by flogging; and

if, in the public service of some countries, this practice is found convenient, because summary, and because it sooner forms an animal machine for labour and fighting; are we on that account to suppose it to furnish a proper ingredient in the discipline of a penitentiary system, the basis of which is reform?

On this subject I will make only one more remark: if this plan of flogging is a proper element in prison discipline, it must be applicable to all sorts of criminals; but I would ask, are the favourers of this system prepared to advocate corporal punishment in the case of females?

I fear, my dear sir, that I have completely exhausted your patience by the length of this letter. I desired to be brief, but I have fallen into the fault of prolixity. The subject is so multifarious, that it is difficult to compress without obscurity. I have given you my views freely, and without the least reserve, and under the influence of a sincere desire to answer truly and correctly, the question propounded in your letter.

I am, dear sir, with great respect, your obed't servant,
FRANKLIN BACHE.

ROBERTS VAUX, Esq.



